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[Aller au sommaire du numéro](#)

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BRITISH COLUMBIA'S ENTRY INTO CONFEDERATION

BY JUDGE F. W. HOWAY

The entry of British Columbia rounded out the Dominion of Canada and gave it a face towards the Pacific. The geographical position of the province is so commanding that it may be said to be the keystone, if not of the Canada that is, then assuredly of the Canada that is to be.

The struggle for union was a conflict of currents and cross-current whose origins are to be found, in some cases, far back in its story.

The discovery of gold in the bars of the Fraser brought in 1858 an influx of miners and merchants from California. It is scarce an exaggeration to say that the Fraser river mines were only the Feather and the Yuba mines transplanted to British soil. Before the advent of these Californians Victoria had been merely a Hudson's Bay Company's post which, thoroughly British, depended entirely upon Puget sound and San Francisco for its regular connection with the world. The first independent merchants, bankers, express companies, steamboats, and mail facilities were American. The whole trade of the region, save that in the hands of the Hudson's Bay Company, drained into San Francisco. California newspapers circulated in the mines; the goods demanded by and supplied to the miners came, almost entirely, from California; the money they handled, if any, was American from California; the main topics of discussion were incidents of California, past or present. At the end of each season many of the miners left for California to spend the winter. The life of the colony was thus closely intertwined with that of California. These conditions, somewhat ameliorated by British and Canadian immigration, continued until long after Confederation, and are the genesis of the small but loud-mouthed annexation party—the bogey of the politicians.

The discovery of the Cariboo mines in the sixties drew many to the colony from England and Eastern Canada. Thus when Confederation began to be in the air the small white population had four divisions: the American element and its sympathisers, practically confined to Victoria, who urged annexation; the eastern Canadians who held up both hands for union and responsible government; the British section who held up one hand for union, but had no fixed view on responsible government; and the disinterested remainder who had no opinions on either.

To return to the source of other difficulties. The arrival of the miners in 1858 led to the formation of the Colony of British Columbia, which included the mainland and adjacent islands. Vancouver Island, however, then was and, until 1866, remained a separate colony. Cariboo lay four hundred miles in the interior of British Columbia. To give access to its wealth that colony built at an expense of probably a million and a half of dollars the great Cariboo wagon road. Of this sum more than six hundred thousand dollars were borrowed. The mainland colony was under heavy customs duties, heavy tolls on the roads, and heavy taxes to meet its bonded debt. The island colony had free trade. The wholesale merchants and the larger traders were all located in Victoria. They absorbed the greater part of the business of the mines; to be in turn absorbed by San Francisco. The miners who did not winter in Cariboo or in California spent the lay-over period in Victoria. British Columbia had the mines and the

burdens while Vancouver Island, that is, Victoria, had the lion's share of the benefits. Thereout originated an animosity between the two colonies—a feeling which was fed by many petty jealousies and differences. This grew until it reached the position that the mere fact that a plan was supported by the island was almost reason enough for opposition thereto on the part of the mainland, especially the Fraser valley, and *vice versa*. In the result the two colonies, by nature mutually complementary, became mutually distrustful and hostile.

Again. In the island colony the machinery for law-making was intricate enough for one of a hundred-fold its population: governor, council, and legislative assembly. On the mainland it was much simpler: from 1858 to 1864 the governor alone, subject to disallowance, made the laws; from 1864 onward the legislative function was vested in a legislative council—a partly representative body—the majority of whose members were government officials appointed by the governor. The two colonies, mutually hostile, struggled along under a heavy debt: British Columbia, over \$1,000,000; Vancouver Island, about \$300,000. And year by year the balance sheet of each showed a deficit. By an Act passed in 1866 the British Parliament united the two antagonistic colonies, under the name of British Columbia. The Act of Union provided that the customs tariff of the mainland should apply to the united colony, and that the law-making authority should be the Legislative Council of the mainland, enlarged to afford representation to Vancouver Island. There was dissatisfaction in Vancouver Island because of the loss of its free port and its representative legislative assembly. On the mainland the union was a grievous disappointment, against which it had struggled for years. But in both sections the feeling was tempered by the thought that relief from heavy burdens had come; that great economy would be effected and taxation reduced by dispensing with one complete staff of civil servants.

The hope was not realized. With the union Governor Seymour of the old Colony of British Columbia became the Governor of the united colony. Seymour was a kindly man, but he lacked the initiative and determination so necessary for the governor of a Crown colony. It was soon apparent that he was not strong enough to apply the pruning knife and reduce the two sets of officials to one set. Taxation remained high; population constantly decreased. At this time also the economic condition was changing. The gold mines which had brought the population were showing, and had shown for some years, unmistakable signs of waning. Agriculture, manufacturing, lumbering, and fishing, where they existed, were in their earliest infancy. The colony could still be accurately described in Governor Seymour's words as a road with a gold mine at one end and a seaport town at the other. There was but little in the colony to retain the population. In 1867 the number of inhabitants had fallen to less than ten thousand. On them the burden of taxation lay heavily, and the more so because of the disappointed hope.

In these conditions a light appeared in the east: the dawn of Confederation. It offered a road to relief. Others had unloaded their debts upon the Dominion. The Legislative Council in 1867 unanimously resolved that it was desirable to unite the colony with the new Canada and requested the Governor to take steps to that end. But Seymour had no real interest in the movement. He frankly stated that he regarded it as the expression of a disheartened community looking for a change. His inaction aroused the public to action. They realized that upon their exertions the result largely depended. A public meeting held in Victoria, in January, 1868,

declared that the people desired union with Canada; that the Governor and the Legislative Council were supine; and requested that the Imperial Government instruct Governor Seymour to conclude negotiations for the admission of the colony. Tentative terms were suggested. They are illuminating. In the forefront was placed the relief of the colony from its existing debt, estimated at \$1,500,000; then followed provisions for federal services, a sufficient subsidy for the support of local government, proper representation, the construction of a wagon road to connect with the eastern part of Canada, and representative institutions.

The people of British Columbia were not asking for impossibilities. They knew that the question could not be settled until the intervening territory under the control of the Hudson's Bay Company had been obtained by Canada. But they knew that no assistance could be sought from the Governor, even in their efforts to solidify public opinion. Their diagnosis proved to be correct. In April, 1868, the supporters of Confederation brought into the Legislative Council draft terms of union. Its opponents carried an amendment declaring that while in favour of Confederation the members had not sufficient information to enable them to define advantageous terms. The majority included the official members and three "popular" representatives, two of whom were from Vancouver Island, the home of annexation and opposition.

It was plain that no headway could be made in the Legislative Council under Governor Seymour. The constitution of that body—the governor had the unfettered selection of the majority, i.e. 14 out of 23—made its voice merely his voice. "The belief had now become firmly fixed, and it was well founded, that he and his nominees, the official members of the Legislative Council, were determined to balk the popular desire. The main basis of that desire, as has been already hinted, lay in the hope of escape from the annual deficits and the consequent burden of increasing taxation. It is true that the leaders in the movement had vision of a united Canada stretching from sea to sea; but the populace saw in it, chiefly, a relief from their present and pressing pecuniary burdens. Thus it happened that the form of government, the civil list, and the alleged mal-administration of colonial affairs took their places in the Confederation discussion."

In May, 1868, a Confederation League was formed in Victoria. That community was then much divided; one party strongly supported Confederation; another as strongly opposed it; while another favoured annexation to the United States. Branches of the league were established in New Westminster, Hope, Yale, Lytton, and Cariboo. The press of the colony was solidly behind the movement. In the summer of 1868 a convention was held by the league at Yale to accelerate the admission of the colony into the Dominion, to urge the introduction of responsible government, and to discuss the country's grievances. The terms of union then put forward were practically those that had been before the legislative Council a few months previous, with the addition of a free port. The Legislative Council was denounced as having "no real independence," as "a sham legislature," as being only the Governor and his Executive Council in another form. The remedy offered was to obtain responsible government. In the debates and resolutions upon the grievances it was claimed that the deficit for 1867 was about \$130,000, that out of a total expenditure of nearly \$600,000 only \$52,000 were for public works; that in the estimated expenditure of over \$572,000 for 1868 \$55,800 were set down for public works—the remainder being absorbed by fixed charges for sinking fund and interest and the salaries of an army of officials. The convention attacked the civil

list and pointed out where savings could be made by merger of offices and reduction of salaries. A perfect sheaf of resolutions was handed to the Governor for transmission to Downing Street. In acknowledging their receipt he stated that some of the matters would be brought before the Legislative Council and that he would forward their request to the Home Authorities "with perfectly respectful comments." This somewhat cryptic expression leads to the inference that the castigation that he was receiving in the colonial press for his opposition to Confederation—his inaction at the outset had now become active opposition—had "flecked the raw."

The Governor's letter transmitting these resolutions to Downing Street is a fine example of Seymour at his best—or at his worst. As to the union with Canada he remarks with owl-like gravity that that is a matter which does not rest with this so-called convention. Regarding the demand for representative institutions and responsible government he declares that the legislative constitution of the country has occupied much of his attention but that he "has not been able to see a clear path before him;" that he will, however, anxiously consider the subject and it is not unlikely that it will be brought up at the next session. He did not state that he would bring it forward: and it was certain that its sponsors would. His answer to the suggested economies was that the interest on the public debt absorbed one-third of the revenue, but that he had not incurred the debt and had never appointed any official higher than a constable. Perhaps his choicest gem is this: "Were we free from debt our finances would be in a most flourishing condition."

A new Legislative Council met in December, 1868. Up to this time the supporters of Confederation had brought it forward. Now came the time of the "anti's" who boldly moved that: "This Council impressed with the conviction that under existing circumstances the Confederation of the Colony with the Dominion of Canada would be undesirable, even if practicable, urges Her Majesty's Government not to take any decisive steps towards the consummation of such Union." The confederationists offered amendments to the effect that until the intervening territory had been transferred to the Crown it would be premature to express any definite opinion. On the vote they were decisively beaten: only mustering five supporters—all from the mainland. The next day they entered upon the minutes a protest declaring that the vote did not fairly reflect public opinion, and starting that: "The Colonists resident on the mainland, the larger and more productive portion of the united Colony, together with a large minority in Vancouver Island, are nearly unanimous in favour of Confederation upon fair and equitable terms, when the proper time shall come for its consummation. This will appear," the protest continued, "from the simple fact that all the Elective Members from the mainland were returned as Confederationists and every one of those members now joins in this protest." The opponents of Confederation, not to be outdone, countered the next day with their protest which claimed that it was necessary to express an opinion on this subject as it had for the first time been brought before their constituents in the recent elections and as the Governor had invited the discussion, which in the result had rescinded the resolutions of the two preceding years. This counter-protest went on to allege that efforts were being made to induce the Home Authorities to unite the colony with the Dominion, and concluded with the statement that all the four members elected for Vancouver Island were anti-confederationists.

But while these vacillations and recriminations were occurring the transfer of Rupert's Land to the Crown was concluded. In March, 1869, the Hudson's Bay Company for £300,000 surrendered (subject to certain reservations) all its rights in and to that vaguely defined region. This enabled Sir John A. Macdonald to write:—

"It is quite clear that no time should be lost by Lord Granville in putting the screws on at Vancouver Island, and the first thing to be done will be to recall Governor Seymour, if his time is not out. Now that the Hudson's Bay Company has succumbed, and it is their interest to make things pleasant with the Canadian Government, they will, I have no doubt, instruct their people to change their anti-Confederate tone. We shall then have to fight only the Yankee adventurers, and the annexation party proper, which there will be no difficulty in doing, if we have a good man at the helm."

This letter shows, as is well known, that the Dominion Government was in correspondence with the chief movers in the cause of union and was fully aware of every motion in the conflict of currents. The manifest desire to speed the inevitable had a retarding effect, and proved a distinct hindrance. The diary of the late D. W. Higgins, the editor of the *British Colonist*, one of the prominent supporters of union and responsible government, has, in 1868, an entry:—

"Had an audience with cabinet. Saw Sir John A. Macdonald, Tilley, Langevin, Chapais, Campbell, and Rose. Told them the wants of colony, and expenses \$517,000. No markets. Last year \$701,000. Seymour imbecile. Corroborated by Waddington."

The vote rejecting Confederation was in February, 1869. A month later the boundaries of Canada had been extended, by the inclusion of the Hudson's Bay territories, to the borders of British Columbia; and in June 1869 Governor Seymour suddenly died. The way was now cleared. His successor, Anthony Musgrave, was appointed within two days after the arrival of the news. This selection had been made some time previously, in anticipation of Seymour's intended application for sick leave. The Dominion Government had urged it because of Musgrave's known "prudence, discretion, and loyalty to the cause of Confederation." The Imperial Government now entered the lists as a zealot champion of the union. Following close upon the heels of his appointment came a despatch from the Colonial Office stating that it was in favour of union and setting forth cogent arguments in support. The Secretary of State for the Colonies indicated further that he was expressing this view "for the consideration of the community and the guidance of Her Majesty's servants." In accordance with his instructions Governor Musgrave gave wide publicity to this despatch.

It thus appears that the British Government was well aware that the opposition of the officials was now the great obstacle. These officials numbered fourteen: five members of the Governor's Executive Council and nine magistrates. The magistrates actually held the balance of power. If they could be got to side with the five elected members (or "popular members," as they were called) from the mainland, who were all supporters of Confederation, the scheme could be passed through the Legislative Council. Then would remain only the question of terms satisfactory to the people; for the trouble in Nova Scotia had shown that the electors must be consulted. As Sir John A. Macdonald wrote:—

"We have had an infinity of trouble in Nova Scotia, although both the Government and the Legislature agreed to the Union, because the question was not submitted to the electors."

The press of the colony and the supporters of Confederation had stated over and over that the opposition of the official members had its root in

their fear for their own positions. Musgrave found this to be true. The magistrates are on record as declaring that they voted for Confederation:—

“Solely at the instance of the then Governor, Mr. Musgrave, on the distinct and repeated assurance from him as the representative of the Queen, that under the terms of Confederation they would be placed in the permanent service of the Dominion Government as County Court Judges and be totally independent of and without the control of the Provincial Government.”

Having thus obtained the support of the magistrates, Musgrave secured the adhesion of the other officials—the Executive Council—by the promise of pensions, as provided in section six of the Terms of Union.

Favourable consideration of the principle being thus assured, Musgrave and his council set themselves to the work of drafting the terms. In this portion of the task the Governor faced four difficulties: the free port for Victoria; responsible government; a railway as a material bond of union; and the financial terms. It is impossible within time limitations to enter into all the details of his plan. He refused to include a free port or responsible government. His correspondence shows that in his view there was not likely to be for many years sufficient trade to make a free port of any substantial benefit to the colony. It was, he said, admitted with unblushing effrontery that the abolition of all duties and port charges would facilitate smuggling into the United States. And from this position, despite much pressure, he never receded. He regarded responsible government as entirely unsuitable to a community so small and so constituted—a sparse population scattered over a vast area of country. On this subject he was forced to yield ground—though he never changed his opinion and never included it in his terms. He held the view that the crux of the situation lay in the promise of an overland communication. The great barrier range of the Rockies cut off British Columbia so completely from Eastern Canada that unless it could be overcome the union would be only nominal. He thus expressed himself:—

“Free commercial intercourse would be easier with Australia than Canada; and the administration of official departments could practically be conducted with equally great facility in London as in Ottawa.”

His terms asked for a wagon road to be built within three years and railway connection at the earliest possible date: \$1,000,000 to be spent in its construction annually beginning at the end of three years: His principal financial terms were: Canada should assume the colonial debt, and should pay interest on the difference between that amount and an estimated debt based on the average indebtedness per capita of the other provinces; the population should be taken at 120,000 (in reality, including Indians, it was about one-quarter of that number). Canada should pay \$35,000 a year and eighty cents a head on the supposed 120,000 of population, for the support of the local government.

These terms were placed before the Legislative Council, composed of the same persons with three exceptions as had rejected Confederation under Governor Seymour in the preceding year. In considering them the council pointed out the injurious effect which the Canadian tariff would have on the agricultural and commercial interests of the colony. Provisions to meet this objection later found place in the accepted terms. Some trifling alterations were made in the financial arrangements and the whole scheme accepted without a dissenting vote! This proves the accuracy of

the Honourable John Robson's forecast: After the vote of 1868 he had written in *The British Columbian*:—

"It must be remembered that should Her Majesty's Government decide on the change, the official members of the Council would, as a matter of course, do as they were bid. It was thumbs down on Confederation last session, because Simon said, 'Thumbs down'; but if Simon says, 'Thumbs up', up the official thumbs will go."

A delegation carried the proposed terms to Ottawa for discussion with the Dominion Government. Though they contained no provision for responsible government, as has been stated, and though the Legislative Council, as the shadow of the Governor's will, had refused to include it, yet its supporters, who were all prominent confederationists were determined and would not accept defeat. Mr. John Robson, one of the moulders of public opinion, had declared:—

"We shall fight for and have Responsible Government. . . . We shall enter Confederation with privileges equal to other Provinces."

With the delegation went a supporter of responsible government. His arguments convinced the Dominion authorities, as Sir Charles Tupper stated, "that the province was sufficiently advanced to entitle it to representative institutions." A clause to effect that object was added during the conferences in Ottawa.

The terms suggested by British Columbia were accepted with certain alterations: the wagon road disappeared and in its stead came the promise of a railway to be begun within two years; the population was reduced to 60,000, which, even including Indians, was double its real number. But this reduction and some other changes made the total annual contributions about \$100,000 less than the delegates could accept. A deadlock seemed to have been reached. Then Sir George Etienne Cartier stepped forward with a plan for the grant of land by the colony in aid of the railroad and an annual contribution of \$100,000 in exchange. The news of settlement of the terms was telegraphed to the colony, Great were the rejoicings!

The Legislative Council was now reduced in number and changed in constitution so that of its fifteen members, nine should be elected and six appointed. At the election in November, 1870, the simple question was: "Shall we have Confederation on the terms arranged?" The answer was an unequivocal: "Yes!" All the elected representatives were supporters of Confederation.

In January, 1871, the first Legislative Council in which the people's will was supreme, met and without discussion, save the remarks of the mover and seconder, adopted the agreed terms and passed the necessary address. Then followed an Act introducing responsible government, which was to come into force on proclamation.

The date of British Columbia's entry into the Dominion was fixed as July 20, 1871; and she entered, as John Robson had declared she would, with a constitution granting responsible government.

Thus within two years Musgrave had completely changed the hostile Legislative Council and won it unanimously over to Confederation; had drafted and passed tentative terms of union; and had secured their acceptance with slight alterations by the Dominion Government and the people of British Columbia. He remained in British Columbia to see the fruition of his labours—the joyful first Dominion Day—July 20, 1871. Five days later he sailed on H.M.S. *Sparrowhawk*.